

REMARKS

REJECTIONS UNDER 35 U.S.C. § 102

Claims 37, 43, 51, 57, 67 and 70 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,370,369 issued to Kraiem et al. (*Kraiem*). Applicant submits claims 37, 43, 51, 57, 67 and 70 are not anticipated by *Kraiem* for at least the reasons set forth below.

Claim 37 recites a node that is capable of communicating with plural other nodes via point-to-point wireless transmission links between the nodes. Claim 51 recites similar limitations. The Office actions states that *Kraiem* teaches the limitations of claim 37. Indeed, the Office action points to “mobile terminal 1” and “mobile terminal 15” in Fig. 1 of *Kraiem* as showing a plurality of nodes. However, *Kraiem* only discusses a mobile terminal (e.g., mobile terminal 1) communicating with one other mobile terminal (e.g., mobile terminal 15). *Kraiem* offers no teaching or suggestion of a node that is capable of communicating with plural other nodes via point-to-point wireless transmission links between the nodes

The Manual of Patent Examining Procedure (MPEP) § 2131 states, “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). Furthermore, MPEP § 2112 states, “The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic.” *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993) (emphasis added). Thus, in relying upon the theory of inherency, “the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent

characteristic necessarily flows from the teachings of the applied prior art." *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original).

Kraiem does not expressly disclose a node that is capable of communicating with plural other nodes via point-to-point wireless transmission links between the nodes – *Kraiem* only discloses one node communicating with another node. The Office action provides no basis to reasonably support a determination that *Kraiem* necessarily teaches a node that is capable of communicating with plural other nodes via point-to-point wireless transmission links between the nodes. Thus, the Office action fails to properly reject claims 37 and 51 under 35 U.S.C. § 102(e) based on *Kraiem*. Therefore, Applicant respectfully requests the rejection be withdrawn.

Claim 43 depends from claim 37. Claims 57, 67 and 70 depend from claim 51. Given that dependent claims necessarily include the limitations of the claims from which they depend, Applicant respectfully submits claims 43, 57, 67 and 70 are not anticipated for at least the same reasons the independent claims are not anticipated.

REJECTIONS UNDER 35 U.S.C. § 103

Claims 41, 44, 49, 50, 55, 58, 65, 66, 71 and 72 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Kraiem*. Applicant submits claims 41, 44, 49, 50, 55, 58, 65, 66, 71 and 72 are not obvious for at least the reasons set forth below.

Claims 41, 44, 49 and 50 depend from claim 37. Claims 55, 58, 65, 66, 71 and 72 depend from claim 51. Dependent claims necessarily include the limitations of the claims from which they depend. As discussed above, *Kraiem* fails to disclose at least one limitation of the independent claims. Thus, claims 41, 44, 49, 50, 55, 58, 65, 66, 71 and 72 are not obvious in view of *Kraiem*.

Claims 38-40, 52-54, 68 and 69 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Kraiem* in view of U.S. Patent No. 6,778,516 issued to Foster, Jr. et al.

(*Foster*). Applicant submits claims 38-40, 52-54, 68 and 69 are not obvious for at least the reasons set forth below.

Claims 38-40 depend from claim 37. Claims 52-54, 68 and 69 depend from claim 51. Dependent claims necessarily include the limitations of the claims from which they depend. As discussed above, *Kraiem* fails to disclose a node that is capable of communicating with plural other nodes via point-to-point wireless transmission links between the nodes. *Foster* is cited as disclosing associating a link with a timeslot. Whether or not *Foster* actually teaches the limitations cited in the Office action, *Foster* does not teach or disclose a node that is capable of communicating with plural other nodes via point-to-point wireless transmission links between the nodes. Thus, *Foster* fails to cure the deficiencies of *Kraiem*. Therefore, Applicant respectfully submits claims 38-40, 52-54, 68 and 69 are not obvious in view *Kraiem* and *Foster*.


CONCLUSION

In view of the arguments above, Applicant submits that claims 37-72 are in condition for allowance and such action is respectfully solicited. The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

Please charge any shortages and credit any overcharges to our Deposit Account number
02-2666.

Respectfully submitted,
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Date: 1/17/07


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